IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH-I

IA (IBC) (PLAN) No. 95 of 2024
in CP (IB) 745 of 2020

Under Section 30 (6) of the Insolvency and Bankruptcy Code, 2016, r/w. Regulation 39(4) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 for seeking approval of the Resolution Plan under the provisions of Section 31(1) of the Code; And

In the matter of

Shri. Charudutt Marathe

Resolution Professional For Creatoz Builders Private Limited

…Resolution Professional/Applicant

Versus

"Authum Investment & Infrastructure Limited

.... Respondent

And In the matter of

Virendra K Pawar Proprietor of Shree Electricals Enterprises

…Operational Creditor/Applicant

Versus

Creatoz Builders Private Limited

…Corporate Debtor/Respondent

Order pronounced on 13.07.2026

***Coram**:*

Shri. Prabhat Kumar	**Shri Sushil Mahadeorao Kochey**
Hon'ble Member (Technical)	Hon'ble Member (Judicial)

Appearances:

For the Resolution Professional : Adv. Pulkit Sharma, Adv. Harsh Kesharia
CA Charudatt Marathe RP in person

ORDER

1. The present Application dated **04.11.2024** is filed by Resolution Professional **Shri. Charudutt Marathe** ("*Applicant/Resolution Professional/RP*") under Section 30(6) of the Insolvency and Bankruptcy Code, 2016 ("*Code*"), read with Regulation 39(4) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, seeking approval of the Resolution Plan dated **20.07.2024** ("*Resolution Plan*") in respect of **Creatoz Builders Private Limited** ("*Corporate Debtor*") submitted by **Authum Investment & Infrastructure Limited** ("*Resolution Applicant/SRA*"), approved by the members of the Committee of Creditors ("*CoC*") in its **9th Meeting of the CoC** held on **05.10.2024** by **99.31% voting share through e-voting concluded on 08.10.2024**.

<u>Brief Background:</u>

2. Vide order dated **21.11.2023**, this Adjudicating Authority admitted **CP (IB) No. 745 of 2020** under Section 9 of the Insolvency and Bankruptcy Code, 2016 and initiated the Corporate Insolvency Resolution Process ("CIRP") against the Corporate Debtor. **Shri Charudutt Marathe**, who is registered as an 'Insolvency Professional' with the Insolvency and Bankruptcy Board of India ("IBBI") bearing Registration No. **IBBI/IPA-001/IP-P00350/2017-18/10651** was appointed as the Interim Resolution Professional ("IRP"). Pursuant thereto, a Public Announcement in **Form**

A was made on **01.12.2023** in accordance with Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, inviting claims from the creditors on or before **12.12.2023**.

3. **Authum Investment & Infrastructure Limited** is the **Successful Resolution Applicant ("SRA")**, whose Resolution Plan was approved by the Committee of Creditors with **99.31% voting share** in its **9th Meeting** held on **05.10.2024**, with e-voting concluded on **08.10.2024**. The present Application seeks approval of the said Resolution Plan under Section 31 of the Code.
4. The Committee of Creditors ("CoC") was initially constituted on **18.12.2023** and was subsequently **reconstituted on 18.01.2024** comprising 1 (one) Secured Financial Creditor and 27 (Twenty- Seven) Home Buyers in a class represented through the Authorised Representative, **Shri Vivek Dabhade**. Thereafter, the Resolution Professional conducted the CIRP in accordance with the provisions of the Code and convened **nine meetings of the CoC**, wherein various matters relating to the CIRP, including the Resolution Plan, were considered.
5. In the **1st Meeting of the Committee of Creditors** held on **27.12.2023**, the Interim Resolution Professional apprised the Committee of the status of the CIRP, including the non-availability of the relevant records and information from the suspended directors of the Corporate Debtor, the unsold inventory of the Corporate Debtor's Pune Project (Jade Residency), and the regulatory requirements under the Code and the CIRP Regulations. Since no voting was concluded on the agenda items, the voting period was extended till 22.01.2024 at the request of the Committee of Creditors.
6. In the **2nd Meeting of the Committee of Creditors** held on **14.02.2024**, the CoC approved the eligibility criteria for prospective resolution applicants and authorised the Resolution Professional to publish **Form G** inviting **Expression of Interest ("EOI").** Accordingly, Form G was published on **16.02.2024** in accordance with the provisions of the Code

and the CIRP Regulations. Thereafter, the final list of eligible Prospective Resolution Applicants was issued on **17.03.2024**. In the **3rd Meeting of CoC**, the Information Memorandum, Request for Resolution Plan ("**RFRP**") and Evaluation Matrix were deliberated upon and approved, following which the same were circulated to the eligible Prospective Resolution Applicants. The last date for submission of the Resolution Plan, after extension, was **29.04.2024**.

7. In the **4th, 5th and 6th Meetings of the Committee of Creditors**, the Resolution Plans received from the Prospective Resolution Applicants were opened and deliberated upon. The CoC considered the eligibility of the Resolution Applicants under Section 29A of the Code, permitted one-time modification of the Resolution Plan in terms of the RFRP and the CIRP Regulations and also resolved to seek extension of the CIRP period. Accordingly, this Adjudicating Authority, vide order dated **14.08.2024**, extended the CIRP period by **ninety days**.
8. Thereafter, in the **7th and 8th Meetings of the Committee of Creditors**, the modified Resolution Plan submitted by the Successful Resolution Applicant was placed before the CoC for consideration. The CoC also considered the due diligence report, sought exclusion of time from the CIRP period and deliberated upon matters relating to the Resolution Plan.
9. In the **9th Meeting of the Committee of Creditors** held on **05.10.2024**, the Resolution Plan submitted by **Authum Investment & Infrastructure Limited** was considered and, upon being found feasible and viable, was approved by the CoC with **99.31% voting share** through e-voting concluded on **08.10.2024**.
10. Consequent upon the approval of the Resolution Plan by the Committee of Creditors, the Resolution Professional issued a Letter of Intent dated **09.10.2024** in favour of **Authum Investment & Infrastructure Limited** declaring it as the Successful Resolution Applicant. The Letter of Intent was accepted by the Successful Resolution Applicant vide its

communication dated **10.10.2024**. Thereafter, the Successful Resolution Applicant complied with the requirement of furnishing the **Performance Security** in terms of the Request for Resolution Plan.

11. The Resolution Professional has submitted that the Resolution Plan, as approved by the Committee of Creditors, satisfies the requirements of the Insolvency and Bankruptcy Code, 2016 and the CIRP Regulations. Accordingly, the present Application has been filed under Section 30(6) of the Code seeking approval of the Resolution Plan under Section 31 of the Code.

Salient Features of the Resolution Plan:

12. The key features and summary of the final Resolution Plan submitted by the Successful Resolution Applicant and as approved by the Committee of Creditors are as under:

The Resolution Plan provides for payment of the Corporate Insolvency Resolution Process Costs in priority to all other debts in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016. The amounts proposed to be paid to the various stakeholders under the approved Resolution Plan are as under:

Sr. No	Stakeholders / Costs	Amounts(s)				
			Amount Admitted	**Proposed payout**	**Percentage of Admitted Amount**	**Payment schedule**

1.	**Secured Financial Creditors**					
	a) Creditors not having a right to vote under sub-section (2) of section 21	i. Dissenting	NA	NA	NA	-
		ii. Assenting	2,35,54,04,452.00	5,80,00,000.00	2.46%	Within 90 days from Approval of Resolution Plan
2.	**Unsecured Financial Creditors**	a) Creditors not having a right to vote under sub-section (2) of section 21				
		i.Dissenting	0	Not Applicable	Not Applicable	Within 90 days from Approval of

						Resolution Plan
		ii.Assenting	4,01,92,990	Flats being Given to these Home Buyers	0%	Within 90 days from Approval of Resolution Plan
3.	**Operational Creditors**					
		i)Government	Not Applicable	Not Applicable	Not Applicable	-
		ii)Workmen	-	-	-	-
		-PF Dues	Not Applicable	Not Applicable	Not Applicable	
		-Other Dues	Not Applicable	Not Applicable	Not Applicable	
		iii)Employees				-
		-PF Dues	Not Applicable	Not Applicable	Not Applicable	
		-Other Dues	Not Applicable	Not Applicable	Not Applicable	
		iv)Other Operational Creditors	39,12,34,537.00	-0.00	- Not Applicable	-
		Other debts and dues.	25,46,20,76,318.00	-0	-0%	-

		Shareholders	-	-	-	-
	Grand Total		**28,24,89,08,297.00**	**5,80,00,000.00**	**0.21%**	-

The Amount to SFC of Rs. 5.80 crore, may reduce if CIRP costs are increased over and above Rs. 0.20 Crore.

13. The Resolution Plan provides that the Successful Resolution Applicant shall infuse additional funds of up to **₹1 Crore** towards capital expenditure (Capex) and up to **₹1.01 Crore** towards working capital, as and when required, to ensure business continuity of the Corporate Debtor. The Resolution Plan further provides that the funds required for implementation of the Resolution Plan shall be infused by the Resolution Applicant through itself, its group companies and/or persons forming part of the Special Purpose Vehicle proposed to be incorporated by it. The Resolution Plan records that the financial position of the Resolution Applicant is adequate to support the proposed fund requirement. It is further noted that the Resolution Applicant had deposited an Earnest Money Deposit of **₹5 Crore** during the resolution process. The Resolution Plan further contemplates issuance of equity shares by the Corporate Debtor to the Resolution Applicant within **90 days** from the NCLT Approval Date, in accordance with the applicable provisions of law.
14. The Resolution Plan contemplates implementation of the resolution of the Corporate Debtor as a going concern through a defined transaction structure. The Resolution Plan, inter alia, provides for increase in the authorised share capital of the Corporate Debtor, if required, assignment of the claims of the Secured Financial Creditors to the Resolution Applicant, conversion of such assigned claims, in whole or in part, into equity shares of the Corporate Debtor, infusion of additional funds by the

Resolution Applicant by way of subscription to equity and/or preference shares and unsecured loan, reduction and extinguishment of the existing share capital in accordance with applicable law, and consequential revision and restatement of the financial statements of the Corporate Debtor. The Resolution Plan further provides that the aforesaid transactions shall be implemented in accordance with the terms of the approved Resolution Plan and the applicable provisions of law.

15. The Resolution Plan provides that upon the **NCLT Approval Date**, the implementation of the Resolution Plan shall commence in accordance with its terms. The Resolution Plan, inter alia, provides for opening of a designated bank account in the name of the Corporate Debtor, nomination of key personnel by the Resolution Applicant, **revocation of the powers** and authorisations of the erstwhile promoters and promoter group, and vesting of the management and control of the Corporate Debtor in accordance with the Resolution Plan. The Resolution Plan further provides that any modification, if required after the NCLT Approval Date for compliance with applicable laws or for obtaining statutory approvals, shall be carried out in accordance with law and, wherever required, with the approval of the Adjudicating Authority.

16. The Resolution Plan further provides for the constitution of a **Monitoring Committee** comprising **one representative of the Secured Financial Creditor**, **one representative nominated by the Resolution Applicant** and **the Resolution Professional**, for supervising the implementation of the Resolution Plan during the standstill period of 90 days from the NCLT Approval Date. The Resolution Plan also provides an indicative implementation schedule for, inter alia, constitution of the Monitoring Committee, appointment of key managerial personnel, settlement of claims in accordance with the Resolution Plan and completion of the implementation process within **90 days** from the NCLT Approval Date. Upon due implementation of the Resolution Plan, the Monitoring

Committee shall issue a certificate of due implementation and stand discharged in terms of the Resolution Plan.

17. The Resolution Plan provides that upon implementation thereof, the Resolution Applicant shall acquire **management and control** of the Corporate Debtor. The existing suspended Board of Directors shall stand replaced by a reconstituted Board with appropriate representation of the Resolution Applicant. The Resolution Applicant also proposes to strengthen the corporate governance framework of the Corporate Debtor and shall be entitled to appoint internal and statutory auditors as deemed appropriate. The Resolution Plan further provides for retention of the existing employees of the Corporate Debtor on the existing terms and conditions, while reserving liberty to the Resolution Applicant to induct additional personnel and workforce in accordance with its business requirements and applicable laws.

Statutory Compliance:

18. In compliance of Section 30(2) of IBC, 2016, the Resolution Professional has examined the Resolution plan of the Successful Resolution Applicant and confirms that this Resolution Plan:
    a) Provides for payment of Insolvency Resolution Process cost in a manner specified by the Board in the priority to the payment of other debts of the corporate debtor;
    b) provides for payment to the Operational Creditors in the manner specified under the Resolution Plan and in compliance with the provisions of the Code and the CIRP Regulations;
    c) provides for payment to the dissenting Financial Creditors, wherever applicable, in accordance with the provisions of the Code;
    d) provides for the management of the affairs of the Corporate Debtor after approval of the Resolution Plan;

e) provides for the implementation and supervision of the Resolution Plan; and

f) does not contravene any of the provisions of the law for the time being in force.

19. It is further confirmed by the Resolution Professional that, in compliance with Section 30(4) of the Insolvency and Bankruptcy Code, 2016, the Committee of Creditors has considered the feasibility and viability of the Resolution Plan and has approved the same with **99.31% voting share**, the e-voting having concluded on 08.10.2024.

20. It is further confirmed by the Resolution Professional that, in compliance with Regulation 38 of CIRP Regulations confirms that the Resolution plan provides that;

    i. The amount due to the Operational Creditors under Resolution Plan has been dealt with in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016 and the CIRP Regulations;

    ii. The Resolution Plan includes a statement as to how it has dealt with the interest of all stakeholders.

    iii. The Resolution Plan provides:

    a) The terms of the plan and its implementation schedule.

    b) For the management and control of the business of the Corporate Debtor during its term.

    c) Adequate means of Supervising its implementation.

21. The Applicant has filed the compliance certificate in form H, the relevant extracts of which are reproduced hereunder:

The details of the CIRP are as under:

Sr. No.	***Particulars***	***Description***
1.	*Name of the CD*	*Creatoz Builders Private Limited*

2.	*Date of Initiation of CIRP*	*21.11.2023*
3.	*Date of Appointment of IRP*	*21.11.2023*
4.	*Date of Publication of Public Announcement*	*01.12.2023*
5.	*Date of Constitution of CoC*	*18.12.2023, and Re-Constituted on 18.01.2024 and again Re-Constituted on 17.09.2024*
6.	*Date of First Meeting of CoC*	*27.12.2023*
7.	*Date of Appointment of RP*	*Deemed RP on 04.01.2024*
8.	*Date of Appointment of Registered Valuers*	*02.01.2024*
9.	*Date of Issue of Invitation for EoI (Form G)*	*16.02.2024*
10.	*Date of Final List of Eligible Prospective Resolution Applicants*	*17.03.2024*
11.	*Date of Invitation of Resolution Plan*	*17.03.2024* *[Date of issuance of Information Memorandum (IM), Request for*

		Resolution Plan (RFRP), including Evaluation Matrix (EvM). (Regulation 36B)]
12.	*Last Date of Submission of Resolution Plan*	*29.04.2024 As per the RFRP, the last date of submission of Resolution Plan was 17.04.2023, which was extended first till 27.04.2024, and further extended till 29.04.2024.*
13.	*Date of submission of Resolution Plan to the RP*	*27.04.2024*
14.	*Date of placing the Resolution Plan before the CoC*	*02.05.2024*
15.	*Date of Approval of Resolution Plan by CoC*	*08.10.2024* *E-Voting For Resolution Plan Approval was considered in the 9th CoC Meeting on 05.10.2024, and was Concluded on*

		08.10.2024 *On 20.06.2024, the Hon'ble. AA has issued an interim Order to stay on the Voting on Resolution Plan, which was vacated on 03.10.2024.*
16.	*Date of Filing of Resolution Plan with Adjudicating Authority*	*04.11.2024*
17.	*Date of Expiry of 180 days of CIRP*	*19.05.2024*
18.	*Date of each order extending / excluding the period of CIRP on request filed by RP*	***14.08.2024*** *- in IA 3939 of 2024 Hon. AA allowed One time Extension by 90 days, CIRP Extended to 17.08.2024.* ***10.12.2024*** *- in IA 5757 of 2024 Hon. AA allowed Exclusion of 60 days from CIRP, CIRP Extended to 16.10.2024.* ***04.02.2025*** *- in IA 612 of 2025*

		Hon. AA allowed Exclusion of 45 days from CIRP, CIRP further Extended to 30.11.2024.
19.	*Date of Expiry of Extended Period of CIRP*	*30.11.2024*
20.	*Fair Value*	*Rs. 19.47 Crore*
21.	*Liquidation value*	*Rs. 16.20 Crore*
22.	*Number of Meetings of CoC held*	*11 Meetings*

The details and documents related to the Successful Resolution Applicant are as under:

Sr. No.	***Particulars***	***Description***
1.	*Name of Successful Resolution Applicant (SRA)*	*Authum Investment and Infrastructure Limited*
2.	*Nature of Business of SRA*	*Listed NBFC, Registered with RBI. The SRA is engaged in financing activity as well as have 22 Branches, with some immovable properties, and is generating a good Liquid Surplus.*

3.	*Relationship status of SRA with CD, if any*	*Financial Creditor of CD*
4.	*Whether SRA is eligible to submit plan u/s 240A of IBC in case of MSME CD*	*Not Applicable*
5.	*Due Diligence Certificate of the RP u/s 29A of IBC*	*Enclosed.*

Details of CIRP and Resolution Plan:

Sr. No.	***Particulars***	***Description***
1.	*Whether Corporate Debtor is an MSME, if so, Date of obtaining MSME registration (pls attach copy of registration certificate)*	*NO.* *N.A.*
2.	*Business of the CD*	*The CD is a Builder and Developer, and it has constructed a scheme of 23 Residential Towers, at Village Wagholi, Taluka Haveli, Dist Pune, in the name & Style as "Jade Residency", comprising of 3 Gat Nos. viz.* *1. Gat No. 1405A (Old Gat No. 2391A)* *- 1 Hect 88 R i.e. 18,800 Sq.Mtr.*

<table>
<tr><td></td><td></td><td>2. Gat No. 1405B (Old Gat No. 2391B)
-9 Hect 9.2 R i.e. 30,920 Sq.Mtr.

3. Gat No. 1403/12
- 0 Hect 60 R i.e. 6,000 Sq.Mtr.
i.e. Total 55,720 Sq.Mtr.</td></tr>
<tr><td>3.</td><td colspan="2">Total Admitted Claims (Amount in Rs.) Rs. 28,24,89,08,297.00
<table>
<tr><td>Sr. No.</td><td>Description</td><td>Principal</td><td>Interest and penalty, if any</td><td>Total</td></tr>
<tr><td>1.</td><td>Corporate Guarantee claims</td><td>0</td><td>0</td><td>0</td></tr>
<tr><td>2.</td><td>Other than Corporate Guarantee claims</td><td>14,88,98,76,396</td><td>13,35,90,31,901</td><td>28,24,89,08,297</td></tr>
</table></td></tr>
<tr><td>4.</td><td>Resolution Plan Value (including insolvency resolution process cost, infusion of funds etc.)</td><td>Rs. 8.00 Crore.

Monetary Value of Flats given to Allottees (Home Buyers) Rs. 8.67</td></tr>
</table>

	(In the case of real estate CDs, provide the monetary value of flats etc. given to allottees	*Crore.* *Enclosed.*
5.	*Voting percentage (%) of CoC in favour of Resolution Plan*	*99.31%* *Minutes of 9th CoC Meeting held on 05-10-2024, are enclosed*

22. Details of Actions to be conducted according to the indicative timelines:

Sr. no.	***Action***	***Indicative Timelines***
1.	*Approval by Hon. NCLT*	*T*
2.	*Intimation to all Creditors, existing shareholders and other stakeholders of the CD*	*T+15 days*
3.	*Intimation to Tax authorities and various other statutory T+15 days authorities (As applicable)*	*T+15 days*
4.	*Transfer of Promoter Equity*	*Not Applicable since share capital to be reduced to NIL*

5.	*Management of CD: (i) Formation of Interim Monitoring Committee (ii) Formation of a Board of the CDs; (iii) Appointment of key managerial employees of the CD;*	*T+ 30 days*
6.	*Seeking Requisite Approvals*	*T+ 30 days*
7.	*Payment of CIRP Costs*	*T+ 90 days*
8.	*Settlement of Claims/assignment of debt of Creditors as per the Resolution Plan*	*T+ 90 days*

23. *The list of financial creditors of the Creatoz Builders Private Limited being members of the CoC and distribution of voting share among them is as under:*

Sr. no.	***Name of Creditor***	***Voting Share (%)***	***Voting for Resolution Plan (Voted for/ Dissented/ Abstained)***

1.	*Reliance Commercial Finance Limited, (Now-Authum Investment & Infrastructure Limited.) (Authum) .*	*98.33%*	*98.33% -Voted For*
2.	*27 Home Buyers, Represented by Authorised Representative, Shri. Vivek Dabhade.* *Voting was Exercised by 17 Home Buyers, having aggregate voting share of 0.98%.*	*1.67%*	*0.98%-Voted For*
	TOTAL	***100%***	*99.31% Voted For*

Note: Out of 27 total Home Buyers, 17 Home Buyers casted their vote. However, the remaining 10 Home Buyers, having aggregate voting share of 0.69% were yet to cast their vote, as of the end of timelines for voting on 08.10.2024. The IRP/RP has not received any request for extension of voting timelines, from the CoC Members, within the minimum permitted timeline of mandatory 48 hours, since the voting was made live, as required by the Regulations.

24. It is pertinent to note that though the Resolution Plan Application was filed after the expiry of the original period of 180 days from the Insolvency Commencement Date, the Corporate Insolvency Resolution Process stood extended and excluded from time to time by orders of this Adjudicating Authority. Initially, a one-time **extension of 90 days** was granted vide **order dated 14.08.2024**. Thereafter, during the pendency of **IA No. 2342 of 2024** challenging the reconstitution of the Committee of Creditors, this

Adjudicating Authority directed that voting on the Resolution Plan shall remain stayed. Upon dismissal of the said application on 03.10.2024, this Adjudicating Authority, vide orders dated **10.12.2024** and **04.02.2025**, **excluded 60 days and 45 days, respectively**, from the CIRP period. Accordingly, the Resolution Plan Application filed by the Resolution Professional is within the CIRP period as extended/excluded by orders of this Adjudicating Authority.

25. M/s Piramal Capital and Housing Finance Ltd. filed an appeal bearing Company Appeal (AT) (Ins) 2143 of 2024 before Hon'ble NCLAT challenging the order dated 03.10.2024, wherein the Hon'ble NCLAT asked the parties vide order dated 22.11.2024 to adjourned the matter before this Tribunal to 09.12.2024 and this direction remained in force till 30.04.2026 when the appeal was withdrawn by M/s Piramal Capital and Housing Finance Ltd. Consequent thereto objection to the Resolution Plan filed by M/s Piramal Capital and Housing Finance Ltd in IA 6020 of 2024 was disposed of as withdrawn on 07.05.2026. Thereafter, this matter was proceeded further.

26. We have considered the Resolution Plan, the submissions of the Resolution Professional, the Compliance Certificate in **Form H** and the Due Diligence Certificate placed on record. We are satisfied that the Resolution Plan complies with the requirements of Section 30(2) of the Insolvency and Bankruptcy Code, 2016 and the applicable provisions of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The Resolution Plan provides for payment of the Corporate Insolvency Resolution Process Costs in priority to all other debts, deals with the claims of the Operational Creditors in accordance with Section 30(2)(b) of the Code and the CIRP Regulations, provides for the management of the affairs of the Corporate Debtor after approval of the Resolution Plan, its implementation and supervision, and does not contravene any provisions of law for the time being in force. We also note that the Resolution Professional has certified

the eligibility of the Successful Resolution Applicant under Section 29A of the Code and the Due Diligence Certificate supports the said eligibility.

27. We further note that the Resolution Plan was placed before the Committee of Creditors in its **9th Meeting held on 05.10.2024** and was approved with **99.31%** voting share. The Committee of Creditors, after considering the feasibility and viability of the Resolution Plan and other requirements specified under the Code, 2016 and the CIRP Regulations, approved the Resolution Plan for submission before this Adjudicating Authority under Section 30(6) of the Code.
28. The Resolution Plan contemplates infusion of resolution money through Special Purpose Vehicle (SPV) as an alternate structure. It is clarified that the Resolution Applicant shall directly or indirectly hold more than 50% of the share capital of the Corporate Debtor at least. In case it is decided to implement the approved plan through SPV

29. Accordingly, this Adjudicating Authority is satisfied that the Resolution Plan complies with the provisions of the Insolvency and Bankruptcy Code, 2016 and the CIRP Regulations. As reflected in the Compliance Certificate in **Form H**, the Resolution Plan contemplates an **overall Resolution Plan Value of Rs. 8,00,00,000/- (Rupees Eight Crore only)**, together the with Monetary Value of Flats to be provided to the Allottees (Home Buyers) amounting to **Rs. 8.67 Crore** (Rupees Eight Crore and Sixty-Seven Lakhs only), including the proposed infusion of funds for implementation of the Resolution Plan. We therefore find no legal impediment in granting approval to the Resolution Plan under Section 31 of the Code.

30. In view of the above, this Adjudicating Authority is satisfied that the Resolution Plan meets the requirements of Section 30(2) of the Insolvency and Bankruptcy Code, 2016 and Regulations 37, 38, 38(1A) and 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution

Process for Corporate Persons) Regulations, 2016. The Resolution Plan is in accordance with the provisions of the Code and the CIRP Regulations and deserves to be approved under Section 31 of the Insolvency and Bankruptcy Code, 2016.

31. The reliefs & concessions set out in the Resolution Plan as "Reliefs and Concessions sought by the Resolution Applicant" Under Chapter XII or any other section of the Resolution Plan shall be in accordance with the principle laid down by Hon'ble Supreme Court in case of ***Ghanshyam Mishra and Sons Private Limited v/s. Edelweiss Asset Reconstruction Company Limited {[2021] 13 S.C.R. 737}*** and ***Municipal Corporation of Greater Mumbai vs. Abhilash Lal and Ors. (2019) ibclaw.in 480 NCLAT*** subject to the observations or limitations in the following paras.

   a. As regards to the assignment of the balance unsettled debt by the Creditors to Resolution Applicant or its related party and subsequent conversion thereof into equity share capital of the Corporate Debtor, this Adjudicating authority has no objection so long as such transfer of unpaid debt is permissible in terms of judicial precedents, whereby the unpaid debt of the Creditors stands extinguished, or under the Companies Act, 2013 and accounting standards notified thereunder, and subject to necessary procedures and filing as prescribed under the Companies Act, 2013 and FEMA. It is clarified that such assignment of debt shall not prejudice the right of the creditors to enforce their claims under guarantee, if any executed by any person, to secure the debt owed by the Corporate Debtor, which remains unsettled and is assigned pursuant to the plan. Further, the Income Tax Department shall be at liberty to examine the tax implications arising from such assignment or extinguishment in terms of Section 2(24), Section 28 and Section 56 of the Income Tax Act, 1961 read with GAAR provisions thereunder in relation to assignment or extinguishment of unpaid debt and/or conversion thereof into equity of the Corporate debtor as well as subsequent treatment of such converted debt, if contemplated subsequently.

b. The Applicant shall file necessary forms and pay prescribed fees, if any, in terms of provisions of the Companies Act, 2013 in relation to reduction in capital and issuance of fresh capital, however, the Registrar of Companies shall waive the additional fees, if any, payable on such filing.
c. Any increase in the authorized capital shall be subject to payment of prescribed fee, if any applicable, and filing of prescribed forms with the Registrar of Companies.
d. The SRA may approach prescribed authorities for waiver/reduction in fees, charges, stamp duty, and registration fees, if any arising from actions contemplated under the Resolution Plan and such request shall be dealt with subject to the relevant law/statute and adherence to the procedure prescribed thereunder.
e. The SRA may file appropriate application, if required, for renewal of all Business Permits, rights, entitlements, benefits, subsidies and privileges whether under applicable Law, contract, lease or license granted in favour of the Corporate Debtor or to which the Corporate Debtor is entitled to or accustomed to, which have expired on the Effective Date, and follow the dues procedure prescribed for the purpose upon payment of prescribed fees. It is clarified that continuance of approvals shall not be refused on account of extinguishment of any dues under IBC and extension or renewal thereof shall not be denied on account of past insolvency of the Corporate Debtor. No action shall lie against the Corporate Debtor for any non-compliances arising prior to the date of approval of Resolution Plan, however, such non-compliances shall be cured, if necessitated to keep the approval in force, after acquisition by the

Corporate Debtor within period stipulated in the Resolution Plan.

f. The contract with third parties shall be subject to consent of such parties.

g. No orders levying any tax, demand or penalty from the Corporate Debtor in relation to period up to approval of the Resolution Plan shall be passed by any authority and such demand, if created, shall not be enforceable as having extinguished in terms of approved Resolution Plan. Any tax, demand or penalty pertaining to the period prior to the approval of the Resolution Plan shall be governed by the terms of the approved Resolution Plan and the provisions of the Insolvency and Bankruptcy Code, 2016. To the extent such claims are not payable under the approved Resolution Plan, the same shall not be enforceable against the Corporate Debtor.

h. The carry forward of losses and unabsorbed depreciation shall be available in accordance with the provisions of Income Tax Act or Rules made thereunder, and the Income Tax Department shall be at liberty to examine the same. Further, applicability of Section 115JB or other provisions of Income Tax Act shall be subject to and in accordance with the provisions of Income Tax Act or Rules made thereunder. Further, the concerned tax authorities shall be at liberty to examine the carry forward of input tax credit available under Indirect Tax for its further carry forward.

i. An application for compounding/condoning shall be filed in accordance with the procedure specified in respective law or concerned authority, however, no fine or penalty shall be imposed for non-compliances till the date of approval of this Plan or such further period as is permitted in terms of this Order.

j. ROC shall update the records and reflect the Corporate Debtor as 'Active' upon filing of pending returns/forms after payment of normal fees (not additional fee). In case such filing is not permitted by the e-filing portal, the ROC shall accept such forms/returns in physical format and manage to upload the same by back-end. The Corporate Debtor shall be exempted from using the words "and reduced".

k. The Compliances under the applicable law for all the statutory appointments by the Corporate Debtor shall be completed within 12 months or such further period as is stipulated in the plan, whereafter, the necessary consequence under respective law shall follow.

l. The Compliances under the applicable law for all the statutory appointments by the Corporate Applicant shall be completed within 12 months, where after, the necessary consequence under respective law may follow.

m. The Resolution Applicant, the Corporate Debtor and the assets of the Corporate Debtor forming part of Resolution plan shall have immunity, privileges and protection as is available in the form and manner stated in Section 32A of the Insolvency and Bankruptcy Code, 2016.

n. The relief, concession or waiver contemplated in the approved Resolution Plan under any of its section and allowed herein shall be available to the Corporate Debtor only and such relief, concession or waiver shall not extend to its subsidiaries, joint-ventures or associates/affiliates, who have not been subjected to resolution in the present CIRP process of Corporate Debtor. However, it is clarified that no claim or action shall lie against the Corporate Debtor in relation to any financial or any kind of obligation of subsidiaries, joint-ventures or associates/affiliates, whether past or arising in future.

o. It is clarified that any relief, concession or waiver prayed in the Resolution Plan but not specifically dealt with in Para 31(a) to (n) above, save as otherwise permissible in terms of ***Ghanshyam***

Mishra and Sons Private Limited (supra) or specific provisions of the Code read with the Regulations, shall be deemed to be denied or rejected.

32. In ***K Sashidhar v. Indian Overseas Bank & Others*** (in Civil Appeal No.10673/2018 decided on 05.02.2019) the Hon'ble Apex Court held that if the CoC had approved the Resolution Plan by requisite percent of voting share, then as per section 30(6) of the Code, it is imperative for the Resolution Professional to submit the same to the Adjudicating Authority (NCLT). On receipt of such a proposal, the Adjudicating Authority is required to satisfy itself that the Resolution Plan as approved by CoC meets the requirements specified in Section 30(2). The Hon'ble Apex Court further observed that the role of the NCLT is 'no more and no less'. The Hon'ble Apex Court further held that the discretion of the Adjudicating Authority is circumscribed by Section 31 and is limited to scrutiny of the Resolution Plan "as approved" by the requisite percent of voting share of financial creditors. Even in that enquiry, the grounds on which the Adjudicating Authority can reject the Resolution Plan is in reference to matters specified in Section 30(2) when the Resolution Plan does not conform to the stated requirements.

33. In view of the discussions and the law thus settled, the instant Resolution Plan meets the requirements of Section 30(2) of the Code and Regulations 37, 38, 38 (1A) and 39 (4) of the Regulations. The Resolution Plan is not in contravention of any of the provisions of Section 29A of the Code and is in accordance with law. The same needs to be approved. Hence, ordered.

34. The Resolution Plan is hereby **approved**. It shall become effective from this date and shall form part of this order with the following directions:

    i. It shall be binding on the Corporate Debtor, its employees, members, creditors, including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force is due, guarantors and other stakeholders involved in the Resolution Plan.

ii. The approval of the Resolution Plan shall not be construed as waiver of any statutory obligations/liabilities of the Corporate Debtor and shall be dealt by the appropriate Authorities in accordance with law. Any waiver sought in the Resolution Plan, shall be subject to approval by the Authorities concerned in light of the Judgment of Supreme Court in ***Ghanshyam Mishra and Sons Private Limited v/s. Edelweiss Asset Reconstruction Company Limited***, the relevant paragraphs of which are extracted herein below:

> *"95.(i)Once a resolution plan is duly approved by the adjudicating authority under sub-section (1) of Section 31, the claims as provided in the resolution plan shall stand frozen and will be binding on the corporate debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority, guarantors and other stakeholders. On the date of approval of resolution plan by the adjudicating authority, all such claims, which are not a part of the resolution plan shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim, which is not part of the resolution plan;*
> *(ii) 2019 Amendment to Section 31 of the I&B Code is clarificatory and declaratory in nature and therefore will be effective from the date on which the Code has come into effect;*
> *(iii) consequently, all the dues including the statutory dues owed to the Central Government, any State Government or any local authority, if not part of the resolution plan, shall stand extinguished and no proceedings in respect of such dues for the period prior to the date on which the adjudicating authority grants its approval under Section 31 could be continued."*

iii. The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with the Registrar of Companies (RoC), Mumbai, Maharashtra for information and record.

iv. The Resolution Applicant, for effective implementation of the Plan, shall obtain all necessary approvals, under any law for the time being in force, within such period as may be prescribed. It is clarified that the authorities shall not withhold the approval/consent/extension for the reason of insolvency of the Corporate Debtor or extinguishment of their dues up to approval of Resolution plan in terms of the approved plan. Any relief or concession as sought on the plan shall be subject to the provisions of the relevant Act.

v. The moratorium under Section 14 of the Code shall cease to have effect from this date.

vi. The Applicant shall supervise the implementation of the Resolution Plan and file status of its implementation before this Authority from time to time, preferably every quarter.

vii. The Applicant shall forward all records relating to the conduct of the CIRP and the Resolution Plan to the IBBI along with copy of this Order for information.

viii. The Applicant shall forthwith send a certified copy of this Order to the CoC and the Resolution Applicant, respectively for necessary compliance.

Sd/-	Sd/-
Prabhat Kumar	**Sushil Mahadeorao Kochey**
Member (Technical)	Member (Judicial)

AS